REMARKS/ARGUMENTS

Claims 1-29 remain in the application for further prosecution.

§103 Rejections

Claims 1, 2, 5, 7 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,050,895 ("Luciano"), in view of U.S. Patent No. 6,045,446 ("Oshima") and U.S. Patent No. 5,435,554 ("Lipson").

Claims 3-6, 8-14, and 16 to 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Luciano, Oshima, and Lipson in view of U.S. Patent No. 6,308,565 ("French").

Claims 1, 8, 15, 22 and 24 to 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Luciano in view of Bourg ("Physics for Game Developers," by David M. Bourg, © 2002 O'Reilly and Associates, Inc., hereafter referred to as "Physics") and the Power Drive Rally ("Power Drive Rally" video game for the Atari Jaguar ™ game system, © 1994 Atari Corporation, manual downloaded Oct. 26th, 2006 from www.replacementdocs.com, hereafter referred to as "Power Drive").

HINDSIGHT RECONSTRUCTION

As previously explained, the present claims are directed toward the application of displaying a random game outcome by processing physical object data and simulation rule data to produce a realistic depiction of gaming activity represented by objects on a display. This differs from the application of three dimensional modeling to games where a player controls the objects on the display and, therefore, player skill affects the game outcome. The rejections in the Final Office Action improperly combine three or four different references most of which are not in the wagering game art. The combination of such references constitutes impermissible hindsight using the present claims as a blueprint.

However, even with the combination of references, various elements of the pending claims are not disclosed in the cited combinations. The physical object data and simulation rule data resulting in the display of the object in a gaming activity represent a randomly determined outcome which cannot be controlled by the player. For example, the simulation rule data may include parameters describing how a simulated object works within a simulated environment to provide an entertaining activity for wagering. Achieving a winning condition is not within player control because it is a random outcome such as the bounce of a roulette ball, the identity of a playing card from a shuffled deck, or the running of a racing horse. This concept is neither disclosed nor suggested in the references of record.

A. Claims 1 and 8 Are Not Obvious Over The Myriad Of Cited References

1. There Is No Motivation To Combine Three Disparate References of Luciano, Oshima and Lipson or Luciano, Bourg and Power Drive

The Final Office Action has cited two combinations of references against claims 1 and 8 (the combination of Luciano, Oshima and Lipson and the combination of Luciano, Bourg and Power Drive). The Final Office Action acknowledges that Luciano "lacks specificity as to processing physical object data and simulation rule data, and realistically depicting gaming activity on a display." (p. 2). The Luciano reference discloses a traditional wagering game such as slots, roulette, keno, etc. configured to play automatically "i.e., without requiring input from the user" (Col 6, ll. 51-57), combined with a dexterity/skill game which allows a player to control different on-screen objects. Luciano allows the use of the same controller for both the traditional wagering game and the dexterity/skill game in order to satisfy regulatory requirements. (Col. 2, ll. 5-15; Col. 3, l. 62-Col. 4, l. 4). A player may play the dexterity/skill game to earn the opportunity to play the traditional wagering type game. (Col. 5, ll. 62-66). The

dexterity/skill games have outcomes that are determined in relation to a player providing a particular input or inputs. (Col. 5, ll. 1-5). For example, a golf game allows a player to provide an input to simulate a golf shot and thus determine the outcome of the skill-based game depending on the ending location of the golf shot. (Col. 8, ll. 4-20).

The remaining references are player-skill type video games which use object modeling involving real world physical behavior using factors such as mass, velocity, trajectory, etc. to generate realistic graphics of object interaction. The motivation to model real world physical behavior is to provide a player more realistic control over their actions in controlling objects on the display. Therefore, the modeling of physical objects rewards player skill in playing such games. The Final Office Action even details the player skill required to play games such as the hammer throw in Oshima. (p. 19). The object or objects are controlled by the player in order to control game outcomes. For example, Oshima discloses a track and field themed game where a player is provided a controller to throw a hammer. In order to successfully win the game, a player must manually operate the controller to throw the hammer in the correct direction at the correct time. (Col. 3, ll. 13-27; Col. 9, ll. 56-62).

Similarly, Lipson discloses a baseball simulation game which allows a player with a user input device to control game operation such as pitching, batting and coaching. (Col. 3, ll. 48-60). Lipson's game allows real world factors to be controlled by the user to create a game simulation where game results depend on user operation. (Col. 3, ll. 61-68).

The Power Drive game allows a player to assume control of a race car and improve game results through superior driving skill and use of special maneuvers. (pp. 3 and 12). The Power Drive game does not give any disclosure whether the cars and other objects require physical

object data and, indeed, there is nothing in the Power Drive reference that discloses a realistic depiction of car driving.

Finally, the Bourg reference is an instruction manual detailing modeling of objects in player controlled games such as marksmanship in a hunting game (p. x), controlling the firing of a cannon (p. 34), and flying an airplane (pp. 238-239). All of the references relate to games where the outcome is controlled by the player and, thus, are player skill/dexterity games.

a.   The Luciano/Oshima/Lipson Combination Is Improper

With regard to the obviousness rejections, the Final Office Action has improperly combined the hybrid wagering game (random outcome)/skill game aspects of Luciano with the simulation rule data and physical object modeling in Oshima. This combination also requires the addition of simulation rule data from Lipson to allegedly find the elements of these claims. The reliance of three references in combination to anticipate the elements of the claims is impermissibly using these claims as a template and shows the non-obvious nature of the claims.

There is still no motivation provided by the Final Office Action to use the physical data models in Oshima and the simulation rule data allegedly taught in Lipson with a two dimensional graphical object skill game disclosed by Luciano. The Final Office Action bases the motivation to combine references on the assertion that Luciano refers to sports themed games and Luciano's games include collisions between objects. (p. 3). However, there is no reason to believe that one of ordinary skill in the art would look to complex physical data modeling which would incorporate factors such as mass, three-dimensional movement, and angular velocity to modify a game limited to inherently two-dimensional objects as disclosed by Luciano. The physical modeling in the other references goes well beyond the scope of Luciano's simplistic interactions between two dimensional graphical objects.

Moreover, the Final Office Action does not provide any motivation why Oshima and Lipson would be properly combined to display the random game outcome without player input disclosed in Luciano. This lack of motivation alone prevents a finding of obviousness. The Final Office Action acknowledges that the hammer throw game in Oshima and the baseball game in Lipson are games which require player skill. (pp. 3-4). In other words, such references are exactly the opposite of the present claims, which relate to games with randomly selected outcomes that do not allow for player skill. Neither Oshima nor Lispon disclose applying physical object data or simulation rule data to show a randomly determined game outcome. Therefore, the principles in Oshima and Lipson would at best be applied to the player skill based mini-game disclosed in Luciano, but not the traditional random outcome such as slots, roulette or keno and the like which operate without input from the player. (Col. 6, ll. 51-56).

b. The Luciano/Bourg/Power Drive Combination Is Improper

The second combination cited by the Final Office Action is Luciano with Bourg and the Power Drive references. (pp. 11-14). The Final Office Action asserts that Bourg teaches physical object data. Bourg, however, does not teach or suggest simulation rule data including interaction guidelines associated with a winning condition as Bourg only provides general physical object modeling guidelines for application in modeling physical objects and does not disclose application to actual gaming simulation. The Final Office Action cites Power Drive for simulation rule data to fill in the deficiencies in Luciano and Bourg.

There is no motivation provided by the Final Office Action to combine the physical data models in Bourg and the simulation rule data allegedly taught in Power Drive with a two dimensional graphical object game disclosed by Luciano. The Final Office Action merely asserts, without any evidence, that one of skill in the art would combine Bourg with Luciano

without giving a reason. (p. 12). However, there is no reason to believe that one of ordinary skill in the art would look to generally complex physical data modeling concepts in Bourg to modify a game limited to inherently two-dimensional objects as disclosed by Luciano or a non-realistic driving game such as Power Drive. The physical modeling in Bourg goes well beyond the scope of Luciano's simplistic interactions between two dimensional graphical objects and the unknown scope of Power Drive and, therefore, there is no reason why one of ordinary skill would combine Bourg with Luciano or Power Drive.

Moreover the Final Office Action does not provide any motivation why Bourg and Power Drive would be properly combined to the random game outcome disclosed in Luciano. The Final Office Action acknowledges that the race driving in Power Drive is a game which requires player skill. In other words, such references are exactly the opposite of the present claims which relate to games with randomly selected outcomes that do not allow for player skill. Therefore, Bourg would only be applied to the skill mini-game disclosed in Luciano and not the random outcome game.

The Final Office Action has cited a number of other references relating to games such as video roulette having randomly selected game outcomes. (p. 17). As the Final Office Action acknowledges all of these references are similar to Luciano as they are two-dimensional video games. The Final Office Action asserts that it would be obvious to display any of these games with three-dimensional rule data. Again, the Final Office Action fails to supply any motivation to combine these references with three dimensional modeling references previously cited. In fact, there would be no motivation to look to realistic physical object data in combination with simulation rule data, which are necessitated by games of player skill to provide a realistic outcome to randomly determined outcomes which do not rely on player skill.

The Final Office Action apparently comments on the alleged breadth of the pending claims by noting that the breadth of the claims justifies the fact that references relied on by the Final Office Action are disparate in nature. (pp. 17-18). Far from supporting the pending rejections, the admitted disparate nature of the references is evidence that the combination of such references is improperly guided by hindsight based on the pending claims themselves.

2.   **The Cited Combinations Do Not Anticipate Display Of A Randomly Selected Game Outcome With the Physical Object Data and Game Simulation Rule Data in Claims 1 and 8.**

Even accepting the improper combination of these references, claims 1 and 8 are still allowable over the combination of Luciano and any of the other references. Claims 1 and 8 include the elements of randomly selecting a game outcome from a plurality of game outcomes, the game outcomes including a winning condition, displaying the game actions based on physical object data and simulation rule data. Further, the simulation rule includes interaction guidelines associated with the winning condition. A combination of Luciano with any or all of the cited references would not result in a system or method that displays a randomly determined game outcome using physical object data and simulation rule data. The two dimensional objects in Luciano incorporating interaction guidelines all relate to dexterity/skill games which rely on player input (i.e., via a joystick, buttons, etc.) to manipulate a two dimensional object to determine game outcome.

In other words, claims 1 and 8 do not relate to games of skill, rather they relate to wagering type games whose random game outcomes are represented by the physical object data and said simulation rule data. The combinations asserted by the Final Office Action also do not anticipate a randomly selected game outcome as all of the other references relate to games involving player manipulation of physical objects modeled with physical data to achieve a

winning outcome. To the extent the references relate to simulation rules data, all of the data relates to interaction guidelines which relate to player manipulated results because they are games of skill. For example, the factors such as engine power in Power Drive and range of error introduced by Lipson only relate to objects (car or batted ball) that achieve a winning outcome under a player's control and not a randomly selected winning outcome. The Final Office Action disputes that the claims relate to a randomly selected winning outcome by citing an example from the specification. (p. 20). The Final Office Action then asserts that card games are games of skill. The specification is obviously not relevant to determining whether a specific element of the pending claims is present in cited references. However, the deal of the card is not a player controlled event as all such games do not allow a player to select the value of the card or cards to be dealt as in Blackjack or Poker. Instead, the claims relate to a card game which only displays outcomes using physical object data (i.e., the motion of a card being dealt) and the simulation rule data (the value of the card when landing turned up). A player would not exercise any skill for such a game.

Thus, none of these references relate to interaction guidelines associated with a winning condition that is based on a randomly selected outcome as in claims 1 and 8. Claims 1 and 8 are thus allowable over the references of record. Claims 2-7 and 24-26 depend from claim 1 and claims 9-14, 23 and 27-28 depend from claim 8 and are similarly allowable.

3. Claim 4 Is Independently Allowable

Claim 4 further includes the element that the "simulation rule data includes data relating to a simulated gaming world and data relating to rules for interaction between said physical object data and said simulated gaming world data." The Final Office Action has cited Luciano, Oshima and Lipson in combination with French specifically as rendering claim 4 obvious. (pp.

6-7). The combination of French with Luciano, Oshima and Lipson is another example of improper combination of multiple references using the present claim as a template. Even this combination of four references does not anticipate the elements of claim 4.

French relates generally to modeling players in a sports setting and is thus inapplicable for the same reasons as Oshima would not be combined with Luciano. The Final Office Action has asserted that French discloses simulating forces encountered by the athlete in real playing conditions. However, such forces would be classified as physical object data such as natural forces of snow, mud and other physical environmental factors. There is no disclosure of rules for interaction between such physical object data and the simulated gaming world data in French.

B. Claims 15 and 22 Are Not Obvious Over The Myriad Of Cited References

The Final Office Action has also improperly combined Luciano with the Oshima, Lipson, Bourg and Power Drive references in rejecting claim 15 and Luciano with Bourg and Power Drive in rejecting claim 22. As explained above, the combination of these disparate references is improper from a lack of motivation, by itself, indicates that these claims are allowable.

Claims 15 and 22 also include the element that the interaction of the objects include a plurality of outcomes having a winning condition and that the outcome of the interaction is randomly determined. Luciano and the other references do not disclose randomly determining outcomes from the interaction between physical objects. As explained above, Luciano does not disclose random determination of outcomes from object interaction. In fact, Luciano teaches the opposite, the dexterity/skill games involving objects such as a basketball game have predetermined outcomes based on the interaction of the objects. (Col. 7, ll. 4-12). In one example, Luciano explains that a player may control a golf shot to land in different areas to reach predetermined results such as the opportunity to play a traditional game with different paytables.

(Col. 8, ll. 4-25). As explained above, the remaining references do not randomly determine game outcomes from object interaction as a player controls the displayed objects. The game outcomes are not therefore from interaction between objects. Since the outcome of interactions in the cited references is not randomly determined as required by claims 15 and 22, these claims are allowable. Claims 16-21 depend from claim 15 and claim 29 depends from claim 22 and are similarly allowable.
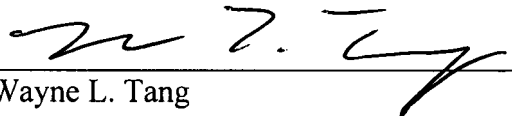
Conclusion

It is the Applicants' belief that all of the pending claims are in condition for allowance and action towards that end is respectfully requested.

If any matters may be resolved or clarified through a telephone interview, the Examiner is respectfully requested to contact the Applicants' undersigned attorney at the number shown.

Respectfully submitted,

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